

Message Text

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PAGE 01 BEIRUT 07592 211704Z

46

ACTION NEA-10

INFO OCT-01 EUR-12 ISO-00 NEAE-00 SAM-01 SSM-03 IO-13

SSO-00 NSCE-00 USIE-00 INRE-00 CIAE-00 DODE-00 PM-04

H-02 INR-07 L-03 NSAE-00 NSC-05 PA-01 PRS-01 SP-02

SS-15 OMB-01 DHA-02 CPR-01 SY-05 A-01 OPR-02 OC-06

CCO-00 AID-05 MCT-01 SCA-01 /105 W

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O R 211548Z SEP 76

FM AMEMBASSY BEIRUT

TO SECSTATE WASHDC IMMEDIATE 1844

INFO AMEMBASSY AMMAN

AMEMBASSY ATHENS

AMEMBASSY CAIRO

AMEMBASSY DAMASCUS

AMEMBASSY JIDDA

AMEMBASSY NICOSIA

AMEMBASSY PARIS

AMEMBASSY LONDON

C O N F I D E N T I A L BEIRUT 7592

E.O. 11652: GDS

TAGS: PINT, LE

SUBJECT: WHAT HAS TO HAPPEN FOR ELIAS SARKIS TO BECOME PRESIDENT
OF LEBANON?

1. SUMMARY. OPINIONS ON WHAT JUDICIAL ACT IS NECESSARY FOR
ELIAS SARKIS TO ASSUME OFFICE AS PRESIDENT SEP 23 VARY FROM
NOTHING AT ALL TO OATH-TAKING BEFORE FULL SESSION OF
PARLIAMENT IN BEIRUT. CAMILLE CHAMOUN IS THE MOST VOCAL
SUPPORTER OF THIS LATTER INTERPRETATION AND STANDS TO GAIN
THE MOST IF IT IS NOT FULFILLED. END SUMMARY.

2. FIVE DIFFERENT THEORIES AS TO WHAT IS REQUIRED FOR ELIAS
SARKIS TO BECOME PRESIDENT OF LEBANON HAVE APPEARED IN
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PAGE 02 BEIRUT 07592 211704Z

RECENT WEEKS IN BEIRUT, AS FOLLOWS:

A. AUTOMATIC ASSUMPTION OF OFFICE ON SEP 23, REGARDLESS OF WHETHER OR NOT HE TAKES OATH OF OFFICE AT THAT TIME. HE WOULD, HOWEVER, HAVE TO TAKE OATH BEFORE PARLIAMENT SOON THEREAFTER. THIS VIEW APPEARS TO BE HELD BY PHALANGISTS AS WELL AS BY MOST ELEMENTS OF PALESTINIAN/ LEFTIST ALLIANCE.

B. OATH IS ESSENTIAL, BUT CAN BE TAKEN ANYWHERE. THIS VIEW WAS WIDELY DISCUSSED IN BEIRUT SEVERAL WEEKS AGO. THEORY WAS THAT TAKING OF OATH WAS ESSENTIAL CONCITANT OF LEGAL ASSUMPTION OF POWERS BUT THAT VALIDITY OF OATH WOULD NOT BE AFFECTED IF IT WERE TAKEN OUTSIDE OF PARLIAMENTARY FORUM PRESCRIBED BY CONSTITUTION. ACCORDING TO THIS THEORY, OATH COULD BE TAKEN BEFORE ANY COMPETENT MAGISTRATE, SUCH AS OUTGOING PRESIDENT.

C. OATH IS ESSENTIAL, BUT IF PARLIAMENT ITSELF CANNOT CONVENE, OATH MUST BE TAKEN BEFORE AT LEAST AN ADEQUATE REPRESENTATION OF PARLIAMENT, SUCH AS THE PRESIDENT OF THE PARLIAMENT (CURRENTLY KAMEL EL-ASSAD) OR THE PARLIAMENTARY ORGANIZING COMMITTEE. THIS IS VIEW OF LEGAL EXPERT PROFESSOR GEORGES VEDEL, WHICH WAS PRESENTED IN SEP 21 MEETING OF PARLIAMENTARY ORGANIZING COMMITTEE. IN THIS CASE, PROFESSOR VEDEL SAYS, MINUTES OF THE SESSION MUST BE RECORDED, SUBMITTED TO PARLIAMENT AT EARLIEST OPPORTUNITY, AND APPROVED BY PARLIAMENT. THIS APPEARS TO BE EMERGING VIEW OF PARLIAMENTARY LEADERS.

D. OATH MUST BE TAKEN BEFORE SESSION OF FULL PARLIAMENT, WITH QUORUM, BUT SESSION NEED NOT TAKE PLACE IN BEIRUT. CONSTITUTION SAYS PARLIAMENT SITS IN BEIRUT, BUT PRECEDENTS BOTH IN LEBANON AND ABROAD (PRINCIPALLY FRANCE, 1940) HAVE BEEN CITED TO JUSTIFY HOLDING SESSIONS ELSEWHERE FOR EXTRAORDINARY REASONS. THIS VIEW IS SUPPORTED BY THOSE, INCLUDING SYRIAN LEADERSHIP, WHO HAVE ADVOCATED HOLDING OF INAUGURAL SESSION AT SOFAR OR CHTAURA.

CONFIDENTIAL

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PAGE 03 BEIRUT 07592 211704Z

E. OATH MUST BE TAKEN BEFORE SESSION OF FULL PARLIAMENT, WITH QUORUM, IN BEIRUT. THIS IS MOST RIGOROUS INTERPRETATION OF CONSTITUTIONAL PROVISIONS AND PRECEDENTS. OBVIOUS COROLLARY IS THAT, IF SESSION CANNOT TAKE PLACE, SARKIS DOES NOT BECOME PRESIDENT. MOST OUTSPOKEN ADVOCATE OF THIS VIEW IS CAMILLE CHAMOUN.

3. COMMENT: IF THE STRICT INTERPRETATION OF THE CONSTITUTION CANNOT BE FULFILLED, THE MAN WHO STANDS TO GGAIN THE MOST IS CAMILLE CHAMOUN. Q ACTING PRIME MINISTER HE WOULD BE LEGALLY ENTITLED TO ASSUME POWER AS ACTING HEAD OF STATE, AND HE MAY HAVE LEFT THE COUNCIL OF MINISTERS IN OPEN SESSION DURING ITS SEP 20 MEETING PRECISELY TO FACILITATE THIS MOVE. QUARRELLING AMONG VARIOUS CHRISTIAN ARMED GROUPS (SITREPS SEP 20, 21) MAY REFLECT JOCKEYING FOR BEST POSITION ON GROUND SHOULD CHAMOUN INDEED SEEK TO ESTABLISH HIMSELF AS SUPREME POWER OF WHAT IS LEFT OF LEBANESE STATE BEGINNING SEP 23.
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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: PRESIDENT ELECT, ASSUMPTION OF OFFICE
Control Number: n/a
Copy: SINGLE
Draft Date: 21 SEP 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: GolinoFR
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976BEIRUT07592
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS
Errors: N/A
Film Number: D760356-0801
From: BEIRUT
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19760939/aaaabgx.m.tel
Line Count: 128
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION NEA
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: GolinoFR
Review Comment: n/a
Review Content Flags:
Review Date: 21 APR 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <21 APR 2004 by ShawDG>; APPROVED <22 APR 2004 by GolinoFR>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: WHAT HAS TO HAPPEN FOR ELIAS SARKIS TO BECOME PRESIDENT OF LEBANON?
TAGS: PINT, LE, (SARKIS, ELIAS)
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006